

Guaranty Agency Total and Permanent Disability Discharge Assignment Procedures

Attachment to September 2010 Electronic Announcement (Updated May 2011)

1. ASSIGNMENT CRITERIA

Pursuant to 34 CFR Section 682.402(c)(5), your agency must assign to the U.S. Department of Education (Department) all loans on which your agency pays a claim for discharge due to total and permanent disability (TPD Discharge). Your agency may not assign a loan with a zero (0.00) balance.

Exceptions:

- a. If the loan was paid in full through involuntary payment within 30 days of your agency's receipt of the discharge application, you may assign the loan to the Department. Please contact the TPD Servicer before assigning a loan with a zero (0.00) balance.
- b. If the borrower is applying for discharge of joint-consolidation and PLUS loans with disabled co-makers, your agency must **refer**, not assign, the loan to the Department. **See APPENDIX VI - Joint Consolidation**
- c. If the borrower has applied for TPD Discharge under the special qualifications for veterans, your agency must **refer**, not assign, the loan to the Department. **See APPENDIX VII – Veterans Disability Discharge**

2. FILING A CLAIM/SCHEDULE OF ASSIGNMENTS

If the FFEL holder makes a determination that the discharge application supports the conclusion that the borrower is totally and permanently disabled, it must file a claim with the guaranty agency within 60 days after making that determination [34 CFR 682.402(c)(7)(ii) AND 682.402(g)(2)(i)]. If the guaranty agency denies the claim, it must notify the loan holder of the reason for the denial. Depending on the outcome of the guaranty agency's review, the loan holder must take one of the following actions:

- a. If the claim is denied, the loan holder must promptly notify the borrower and explain why the claim has been denied. The loan holder must inform the borrower that it will resume collection activities and that it may capitalize accrued interest that was not paid while collection efforts were suspended [34 CFR 682.402(c)(3)].
- b. If the claim is paid, the loan holder must notify the borrower that the guaranty agency has made a determination that the borrower may meet the eligibility criteria for a disability discharge. The notification should inform the borrower that the loan will be assigned to the Department of Education for a review of the request and a determination of eligibility for the discharge [34 CFR §682.402(c)(5)].

The loan holder's notification to the borrower should explain the procedures for reviewing disability discharge requests and inform the borrower that the Department reserves the right to require the borrower to submit additional medical evidence to conclusively prove that the borrower is totally and permanently disabled and to arrange for an additional review of the borrower's condition by an independent physician at no cost to the borrower. The notification should also inform the borrower that if the Department

approves the borrower's request for discharge, the Department will be requesting information on the borrower's earnings from employment. [34 CFR 682.402(c)(5)].

Your agency must assign loans to the Department immediately after receiving reimbursement for the disability claim.

3. CREDIT BUREAU AND NSLDS REPORTING

As instructed in the Electronic Announcement posted to ifap.ed.gov on July 5 2006 (<http://www.ifap.ed.gov/eannouncements/0705CDDCreditBureau.html>), guaranty agencies should report to credit bureaus as follows:

Non-defaulted loan held by the lender – The lender reports Status Code “05” and the Payment Rating that is consistent with the current or delinquent status of the account on the date a lender submits a claim to the guarantor or receives payment from the guarantor (i.e., 0, 1, 2, 3, 4, 5 or 6). Status Code 05 is defined as “Account transferred to another office” and the Payment Rating indicates that the payment for this month was current or delinquent.

No further reporting by the lender would be required, as Status Code 05 is a final status. Since the Department will be responsible for the loan after assignment, it is not necessary to require further reporting by the lender.

A Payment History Profile Grid that represents the accurate account history that should be retained for the account.

Defaulted loan held by the guarantor - The guaranty agency reports Status Code “DA”, which is defined as “Deletes Entire Account.” Since the claim is being filed with the Department and the Department will be responsible for further processing of the loan, as well as credit bureau reporting, the original Collection Account reported by the guaranty agency should be deleted. Otherwise, the borrower will have two Collection Accounts on their credit report: one from the guaranty agency and one from the Department.

Once the account is deleted by the guaranty agency, no further reporting would be required.

Guaranty agencies must also properly update the National Student Loan Data System (NSLDS) to reflect that a loan has been assigned to the Department. After receipt of a disability reimbursement payment and after verifying that the loan had previously been reported to NSLDS, the guaranty agency should report the loan to NSLDS as “DI” or “DS” with a \$0 balance. As with the current assignment process, when a guaranty agency assigns a loan to the Department, the guaranty agency reports to NSLDS a code number for the entity that will receive the loan. The Nelnet TPD Servicer NSLDS identification information is as follows:

<i>Servicer Name</i>	<i>NSLDS Name</i>	<i>ED Servicer Code</i>
Nelnet Total and Permanent Disability Servicer	DEPT OF ED/TPD	582

Note: If a loan holder refers, rather than assigns, a borrower's loan to the Department, the holder is responsible for credit bureau and NSLDS reporting until the Department discharges the loan.

4. OPERATIONAL INSTRUCTIONS

Guaranty Agencies may assign loans to the Department by electronic file or by paper form.

4.A ELECTRONIC ASSIGNMENT FILE SUBMISSIONS VIA SAIG

All TPD electronic assignment files must be transmitted via the SAIG. **See APPENDIX II – Assignment File Format.** When transmitting a TPD Discharge Assignment file to the Department, via SAIG, the agency must include an N05 SAIG Header record, a Batch (BAT) record, the TPD Discharge Assignment file, and an N95 SAIG Trailer record.

For agencies that use EDCONNECT PC-based software for transmitting data via SAIG, the SAIG N05 Header and N95 Trailer records are created automatically. Agencies that use EDCONNECT software, however, must create and include a Batch (BAT) record. Mainframe agencies that do not use EDCONNECT software will need to create and include a SAIG N05 Header record, a Batch (BAT) record, and an N95 Trailer record. If the Batch (BAT) record is not present, the file will be rejected.

Guaranty agencies (agencies) should transmit only one TPD Discharge assignment file, via SAIG, per day. In addition to the SAIG N05 Header record, SAIG Batch (BAT) record, and SAIG N95 Trailer record, each assignment file must consist of an Assignment File Header Record, Assignment File Detail Records, and an Assignment File Trailer Record. **See APPENDIX IV – SAIG Record Specifications** for further detail.

Agencies should send the accompanying hard copy documentation for each assignment file to the TPD Servicer.

Send assignments via overnight or private courier to:

U.S. Department of Education
3015 South Parker Road, Suite 400
Attn: TPD Servicing
Aurora, CO 80014

Agencies should include the following with the hard copy documentation:

- a. The original TPD Discharge Assignment Letter, that also includes the file creation date/time stamp (Figure a)

The Assignment Letter must be on agency letterhead and contain an original signature.

- b. The TPD Discharge Assignment Transmittal Form, including the GA Code and file creation date/time stamp (Figure b).

In addition to including the hard copy transmittal form and assignment letter with the assignment file, the agency should e-mail a copy of the transmittal form and assignment letter to the TPD Servicer at disabilityinformation@nelnet.net. The copy can be in .pdf or MS Word compatible formats (.doc, .docx, .rtf, .txt... etc).

NOTE: The file creation date/time stamp should be exactly the same on the TPD Discharge Assignment

Transmittal Form, and the SAIG Batch (BAT) record on the file sent through SAIG. The file creation date/time stamp should also match the date provided on the Assignment Letter.

Figure a.

TPD DISCHARGE ASSIGNMENT LETTER

(Agency Letterhead)

(DATE)

U.S. Department of Education
XXXX
XXXX

To Whom It May Concern:

The (LEGAL NAME OF YOUR AGENCY) hereby assigns to the United States Department of Education its rights, title, and interest in those student loans accepted from the TPD Discharge Assignment File transmitted, via the Student Aid Internet Gateway (SAIG), on Date (CCYYMMDD) at Time (HHMMSS).

Sincerely,

(NAME AND TITLE OF AGENCY OFFICIAL)

Figure b.

TPD DISCHARGE ASSIGNMENT TRANSMITTAL FORM
FOR SAIG TRANSMISSIONS ONLY

Date: _____

Agency Name: _____

Agency Code: _____

Contact Person: _____ Phone Number: _____

Detail Record Count: _____

BAT ID INFORMATION

GA Code: _____

GA's TG Number: TG _____

Message Class: ASGTPDIN

File Creation Date (CCYYMMDD): _____

File Creation Time (HHMMSS): _____

If the file is a replacement file, check below, and indicate the SAIG information of the file it is replacing:

Replacement File ()

File Creation Date (CCYYMMDD): _____

File Creation Time (HHMMSS): _____

File Errors and File Level Error Report

The Department will conduct an *initial error/preliminary editing process* to ensure that the file is readable and that the detail records add up to the totals in the trailer record. If the file is unreadable or the detail records do not add up to the totals in the trailer record, the assignment file will be rejected in its entirety. The agency will receive a File Level Error Report indicating the reason the file was rejected (Message Class ASGERROP).

In the initial error/preliminary editing process, the Department also reviews the data for each loan on the assignment file to ensure that essential information is included and that the data conforms to various standards designed to ensure that the data is accurate and complete. Any records that fail for system edits, NSLDS checks or Pre-Medical Checks will be returned to the guaranty agency. For example, if an assignment file contains 100 records and 90% of records fail, the TPD Servicer will reject the 90% that failed and accept the remaining 10%. The agency will receive the File Level Error Report (Message Class ASGERROP).

The agency should try to send another assignment file with corrected records via SAIG as soon as possible. In this instance, the agency should e-mail a new TPD Discharge Assignment Transmittal Form and TPD Discharge Assignment Letter to the TPD Servicer at disabilityinformation@nelnet.net. The new transmittal form and assignment letter should include the new file creation date/time stamp of the corrected file being sent via SAIG.

If the TPD Servicer does not receive corrected assignment records within (10) business days, the TPD Servicer will return all accompanying hard copy documentation to the guaranty agency. The guaranty agency will receive the hard copy documentation for all rejected debts by overnight mail or private courier service. The documentation will have a cover sheet indicating the reason(s) for the rejection. If

you have not already done so, please contact the TPD Servicer to confirm a physical address where hard copy documents can be mailed to via overnight or private courier service.

Document Verification

The Department will match the loan documents against the electronic loan records already received for that assignment file and use them to verify the data on that file. This is known as the *document verification process*. During this process, the Department ensures that the Loan Discharge Application for Total and Permanent Disability (TPD Discharge Application) and the original promissory note (or a certified copy of a promissory note, or, if neither is available, an indemnification agreement) and required Stafford and PLUS disbursement documents (see Section 5.D) are received for each record. If the required documentation is missing or unacceptable, the loan will not be accepted for assignment.

Pre-Medical Review

The pre-medical review checks that:

1. The TPD Discharge Application is complete;
2. There are no new Title IV loans after the date of the physician signature; and
3. The physician's license is valid.

System Edits

All debts will then go through the final check, known as the system edits or the load edits.

TPD Accept and Reject Report

The Department accepts assignment of those debts that pass the document verification process, the pre-medical review, and the system/load edits. Those debts are entered into the Department's TPD system. The Department rejects assignment of those debts that fail the document verification process, the system/load edits, and/or the medical review. The guaranty agency will receive a TPD Accept and Reject Report (Message Class ASGSTAOP) indicating the loans that have been accepted and rejected for assignment, including a code(s) indicating the reason(s) the loan was rejected.

The guaranty agency will receive the hard copy documentation for all rejected debts by overnight mail or private courier service. The documentation will have a cover sheet indicating the reason(s) for the rejection. If you have not already done so, please contact the TPD Servicer to confirm a physical address where hard copy documents can be mailed to you via overnight or private courier service.

As explained above, a TPD discharge assignment file may be rejected, in its entirety, if the file is unreadable or the detail records do not add up to the totals in the trailer record or the file contains an error rate above the tolerance set for the number of records on that file. In this case, the agency must make the necessary corrections and transmit a replacement file.

In other cases, some of the loans may be rejected for assignment (loans appearing on your TPD Accept and Reject Report – Message Class ASGSTAOP) and may be returned to you, possibly more than once, if there are errors. If loans are rejected, you must make the corrections and resubmit them as though you are submitting them for the first time. This means submitting all the necessary documentation, with original signatures (transmittal forms, assignment letters, etc.).

Figure c. below contains a listing indicating the different files and reports associated with the TPD

Discharge Assignment process, the SAIG message classes, and the length (LRECL) of the files.

Figure c.

TPD DISCHARGE ASSIGNMENT PROCESS
FILES, REPORTS, AND SAIG MESSAGE CLASSES

<u>SAIG Message Class Description</u>	<u>Message Class</u>	<u>LRECL</u>
TPD Discharge Assignment File (sent from GAs to the Department)	ASGTPDIN	1520
TPD File Level Error Report	ASGERROP	N/A
TPD Accept and Reject Report	ASGSTAOP	N/A

4.B ASSIGNMENT FORM (MANUAL/PAPER SUBMISSION)

If your agency chooses not to use SAIG and submits the assignment manually (a.k.a. ‘on paper’), your agency must include the completed TPD Discharge Assignment Form. See **APPENDIX III.A – Assignment Form**. The form must be accompanied by the paper files (hard copy files). See Section 5. Each group of files you submit must be in alphabetical order and include:

- A manifest. See **APPENDIX V –Additional Information**
- If an Agency official signs (original signature required) each form, it is not necessary to also submit an assignment letter. However, if you are submitting so many forms that signing each one would be burdensome, you may submit an assignment letter, with an original signature by an Agency official on Agency letterhead, as indicated in Figure d. on the following page. A copy of the manifest must be attached to the letter.

In addition to including the hard copy transmittal form and assignment letter with the assignment file, the agency should e-mail a copy of the transmittal form and assignment letter to the TPD Servicer at disabilityinformation@nelnet.net. The copy can be in .pdf or MS Word compatible formats (.doc, .docx, .rtf, .txt...etc).

Note: If any of the above documentation is missing, all of the loans may be returned for correction.

Figure d.

TPD DISCHARGE ASSIGNMENT LETTER

(Agency Letterhead)

(DATE)

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217

To Whom It May Concern:

The (LEGAL NAME OF YOUR AGENCY) hereby assigns to the United States Department of Education its rights, title, and interest in those student loans listed in the enclosure to this letter.

Sincerely,

(NAME AND TITLE OF AGENCY OFFICIAL)

Enclosure

Manual submissions are subject to the same processing applied to SAIG submissions: document verification, pre-medical review, and system/load edits.

Guaranty agencies that make manual submissions will receive the TPD Accept and Reject Report and accompanying hard copy files via the overnight or private courier. The documentation will have a cover sheet indicating the reason(s) for the rejection. If you have not already done so, please contact the TPD Servicer to confirm a physical address where hard copy documents can be mailed to via overnight or private courier service.

As with SAIG submissions, if loans are rejected, you must make the corrections and resubmit them as though you are submitting them for the first time. This means submitting all the necessary documentation, with original signatures (assignment forms, discharge applications, etc.).

5. HARD COPY FILES

The hard copy files (paper files) must include promissory notes, loan applications, and TPD Discharge Applications. Additionally, in accordance with the amendment to the regulations, effective July 1, 2008, the Department requires disbursement documentation in connection with Stafford and PLUS loans (see Section 5.D Disbursement Records) and, in the case of an electronically signed Master Promissory Note or promissory note, the name and address of the entity in possession of the original electronic note (see Section 5.B Electronically Signed Promissory Notes/MPNs). In accordance with record retention requirements, guaranty agencies must retain records for at least three years after a loan is satisfied (see

Section 7).

If the guarantor has obtained a judgment, the judgment should be transferred to the Department in accordance with the laws of the applicable State. To transfer judgments to the Department, contact the TPD Servicer to coordinate the judgment transfer. Agencies must include a certified copy of the judgment or a certified transcript of judgment. Additionally, in order to enforce the judgment as a Federal judgment, in the event that the account is not eligible for a TPD discharge, guaranty agencies must also include a document that assigns the judgment to the Department as indicated in the following sample.

(Agency Letterhead)

DATE

Subject: <Name of plaintiff> <could be the guarantor or, for state agencies, the name of the STATE> Plaintiff

v. _____, Defendant

<Name of> COURT OF _____

<LAW DIVISION - _____ COUNTY>

DOCKET NO.: _____

To Whom It May Concern:

The (name of plaintiff) has obtained a judgment in the above-named case, and for good and valuable consideration, receipt of which is hereby acknowledged, hereby irrevocably assigns to the United States Department of Education (the Department) all <name of plaintiff>'s rights, title, and interest in this judgment. By this assignment, <name of plaintiff> intends that the Department shall be duly able to enforce this judgment, and the undersigned, as authorized representative of <name of plaintiff> hereby certifies that <name of plaintiff> has filed such documents with the clerk of court as required by <name of state> in order to complete this assignment to the Department>.

This Assignment is effective on mm/dd/yyyy.

<Name of plaintiff> hereby authorizes the Department, or any party acting on the Department's behalf, to execute any documents needed to assign the judgment to the Department.

(NAME AND TITLE OF AGENCY OFFICIAL)

For defaulted loans, guaranty agencies must retain and maintain the following documents, relating to the cohort default rate appeal process: Documentation of the date the loan entered repayment; Lender level collection documentation that is submitted to the agency by the lender at the time the lender submits a request for claim payment; Lender level pre-claims assistance requests (including resubmitted and supplemental requests); and Payment histories (prior to default). Guaranty agencies do not have to include these documents in the hard copy files submitted to the Department. Guaranty agencies, however, must be able to readily furnish copies of these documents, if requested by the Department or, within the established deadlines, if requested by a school appealing its cohort default rate.

Guaranty agencies must send all hard copy files, by a private delivery service, to:

U.S. Department of Education
3015 South Parker Road, Suite 400
Attn: TPD Servicing
Aurora, CO 80014

Due to a history of damaged/ripped packages shipped via private carriers and the US Mail, Federal Student Aid has developed additional safeguards related to data exchanged between Federal Student Aid and our data exchange partners. The new requirements for packaging TPD-related documents bring TPD packaging standards in line with Federal Student Aid's established policies on mailing Personally Identifiable Information (PII).

Agencies must double package all sensitive documents in opaque materials that are approved by the shipping agency (DHL, FedEx, UPS, USPS, etc.). Both the "TO" and "FROM" addresses must be included on both the inner and outer packages. Shipping agents must have the capability of tracking the shipment's status and must require signatures upon receipt. The package should not identify the sensitivity of the contents. Additionally, guaranty agencies must be able to identify the contents of the packages/boxes that are sent to Aurora, CO, so that if a package or a box is not received in Aurora, CO, the guaranty agency would be able to identify the contents of the package or box and the affected borrowers (names/SSNs).

The files must be in alphabetical order, but do not have to be divided up into files for each borrower; that is, if you can only produce a batch of promissory notes, a batch of applications, etc., the TPD Servicer will break them up into files. However, if your files already exist, please submit them in alphabetical order.

5.A PROMISSORY NOTES/MPNs

If an original promissory note is not available, a "certified true copy" may be substituted. The copy must include the front and back of the promissory note, have the following language typed or stamped directly on the copy, and must then be signed and dated by an agency official:

"I declare under penalty of perjury that the foregoing is a true and correct copy of the original promissory note."

Signature: _____ (Must be an appropriate
Title: _____ Agency official)
Date: _____

Each promissory note assigned to the Department evidences a single loan and a single debt. Your agency should therefore identify and report as a single debt each obligation evidenced by a separate promissory note, and provide specific data particular to that loan obligation. Combining several loans into one "debt" is not acceptable and will be rejected. If two or more disbursements were made on a single loan, those disbursements constitute one loan obligation and should be combined and reported as a single loan and a unique single debt. This total amount should be indicated in the "Amount of Disbursement" (Positions 279-289 on the assignment file and Box 63 on the Assignment Form). The following are exceptions to this rule:

- An agency may hold a single promissory note that evidences two different types of loans (e.g., an SLS and a Stafford or an **unsubsidized Stafford and a subsidized Stafford**) made to the same borrower. In these instances, the agency should identify two separate debts as associated with a single promissory note.
- Other exceptions are Master Promissory Notes, where one note may cover several loans, and each loan should be assigned as a separate loan.
- Agencies may assign multiple loans for one promissory note, in connection with consolidation loans, as long as the agency assigns the loan the same way it is reporting the loan to NSLDS.

5.B ELECTRONICALLY SIGNED PROMISSORY NOTES/MPNs

Agencies must include a copy of the front and back of the electronically signed promissory note or Master Promissory Note (MPN). Each electronically signed promissory note submitted should indicate the date the borrower signed the note electronically and be an exact copy of the printed note that the borrower would have been able to print when the borrower electronically signed the note. The Department is not requiring any other data fields that would not have already been printed on the note.

The Department understands that there is a longstanding lender and guarantor practice whereby the "receipt" date is used in place of an actual signature date in instances where a borrower leaves the signature date blank. In cases where a promissory note is missing a signature date, the Department may require a lender or guarantor on a case-by-case basis to provide a date from its loan records if such a date is necessary to address a dispute.

The copy of an electronically signed MPN should include a certification in the following format:

"I declare under penalty of perjury that the foregoing is a true and correct copy of the Master Promissory Note."*

Signature: _____ (Must be an appropriate
Title: _____ Agency official)
Date: _____

*Or, in the case of an electronically signed promissory note, this line must state:
"I declare under penalty of perjury that the foregoing is a true and correct copy of the promissory note".

You will note that this certification is similar to the one that is used for promissory notes, except that in the case of electronically signed notes, the word "original" has been omitted.

If a promissory note or MPN was signed electronically, guaranty agencies **no longer need** to include a sheet of paper with a copy of the electronically signed promissory note/MPN that contains the applicable certification ("I declare under penalty of perjury that the foregoing...").

One of the new fields in the Assignment File Detail Record (or new box on the Assignment Form) is the "Entity in Possession of the Original Electronic Note". Guaranty agencies must populate this field with the six-digit identification number of the lender or servicer that is in possession of the original

electronically signed promissory note/MPN, followed by two zeroes, **or** (for cases where the guaranty agency is in possession of the original electronic note), the five-character GA Code, followed by three zeroes. After the revised assignment formats are implemented, guaranty agencies will not have to include the name and address of the entity in possession of the original electronic promissory note/MPN with a copy of the promissory note, as they will be providing this information in the assignment formats. Agencies will still, however, have to submit certified copies of all electronically signed notes.

5.C INDEMNIFICATION AGREEMENTS

If both the original and copy of the promissory note are lost, the agency must include the INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL FAMILY EDUCATION LOAN WITH LOST PROMISSORY NOTE (see Figure e.). The purpose of this indemnification agreement is to enable your agency to assign loans with a lost or missing promissory note, except in cases of known fraud.

The TPD Servicer has been instructed to accept an indemnification agreement in lieu of a promissory note, but only if the language in the attached agreement is used.

Indemnification Agreements should be submitted on agency letterhead. Guaranty agencies may use an electronic signature or a signature stamp for the guaranty agency official, but it must be initialed by the official, in a different color ink. Additionally, all information must be completed on the indemnification agreement.

The inclusion of an Indemnification Agreement does not exclude the requirement that agencies submit disbursement documentation in connection with Stafford and PLUS loans (see Section 5.D Disbursement Records).

Figure e.

INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL FAMILY EDUCATION LOAN WITH LOST PROMISSORY NOTE

Borrower's Current Name: _____
(Last, First, Middle)

Borrower's Previous Name: _____
(Last, First, Middle)

Borrower's Correct SSN: _____

First Disbursement Date: _____

Last Disbursement Date: _____

Total Disbursement Amount: _____

In assigning Stafford Student Loans/Supplemental Loans for Students/Parent (PLUS) Loans/Consolidated Loans to the Secretary of Education (hereinafter "the Secretary"), the

_____ (hereinafter “Guaranty Agency”) agrees that if any loan assigned to the Secretary by the Guaranty Agency without an original promissory note or certified true copy in good condition should become uncollectible by reason of such lost promissory note, or if the Secretary, in his sole discretion, determines that the loan cannot be enforced because of the lost promissory note, the Secretary is entitled to recover from the Guaranty Agency the amount of reinsurance attributable to such loan previously paid to the Guaranty Agency, plus interest from the date the reinsurance was paid. The Secretary may recover amounts due under this agreement by withholding such amounts from any payments due to the Guaranty Agency from the Department of Education.

The Guaranty Agency also agrees that the assignment of any loan covered by this Agreement includes the assignment to the Secretary of any rights held by the Guaranty Agency under any indemnification agreement or warranty executed by the lender in favor of the Guaranty Agency (lender indemnification agreement). In the event the Secretary recovers from the Guaranty Agency the amount paid in reinsurance for a loan covered by this agreement, the Secretary will release to the Guaranty Agency his rights in the applicable lender indemnification agreement.

Date

Signature of Guaranty Agency Official

Print Name and Title

If the original or copy of the promissory note is damaged or is deficient in some manner, as described, below, the guaranty agency must include an Indemnification Agreement (INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL FAMILY EDUCATION LOAN WITH DAMAGED PROMISSORY NOTE OR PROMISSORY NOTE WITH UNINITIALED ALTERATIONS), Figure f. on the following page, with the original or copy of the promissory note.

In the assignment process, the Department does a document verification process wherein certain information indicated in the promissory note is compared to information on the file or Assignment Form. If there is an alteration to the Name, Social Security Number, or the Loan Amount Requested fields(s) which is not initialed by the borrower, the guaranty agency must submit an Indemnification Agreement, found on the following page, with the original or copy of the promissory note. If not, the loan will be rejected for assignment with an error code of “0002” (Prom note not valid. Check SSN, Signature, and/or copies for certification).

Guaranty agencies may only assign loans to the Department using the correct SSN of the borrower. If an agency determines that the SSN on the promissory note is incorrect, the guaranty agency must determine the correct SSN and submit the loan for assignment under the correct SSN. Additionally, the agency must submit the promissory note (even though it indicates the incorrect SSN), together with a copy of an Indemnification Agreement. The Indemnification Agreement must indicate the correct SSN. If the guaranty agency cannot determine the correct SSN for the borrower, the agency cannot assign the loan to the Department.

The Indemnification Agreement should be submitted on agency letterhead. Guaranty agencies may use an electronic signature or a signature stamp for the guaranty agency official, but it must be initialed by the official, in a different color ink. Additionally, all information must be completed on the

indemnification agreement.

The inclusion of an Indemnification Agreement does not exclude the requirement that agencies submit disbursement documentation in connection with Stafford and PLUS loans (see Section 5.D Disbursement Records).

Figure f.

INDEMNIFICATION AGREEMENT FOR THE ASSIGNMENT OF FEDERAL
FAMILY EDUCATION LOAN WITH DAMAGED PROMISSORY NOTE OR
PROMISSORY NOTE WITH UNINITIALED ALTERATIONS

Borrower's Current Name: _____
(Last, First, Middle)

Borrower's Previous Name: _____
(Last, First, Middle)

Borrower's Correct SSN: _____

First Disbursement Date: _____

Last Disbursement Date: _____

Disbursement Amount: _____

In assigning Stafford Student Loans/Supplemental Loans for Students/Parent (PLUS) Loans/Consolidated Loans to the Secretary of Education (hereinafter "the Secretary"), the

_____ (hereinafter "Guaranty Agency") agrees that if any loan assigned to the Secretary by the Guaranty Agency without an original promissory note or certified true copy in good condition should become uncollectible by reason of such damaged promissory note or because it contains alterations without the borrower's initials, or if the Secretary, in his sole discretion, determines that the loan cannot be enforced because of the damaged or altered promissory note, the Secretary is entitled to recover from the Guaranty Agency the amount of reinsurance attributable to such loan previously paid to the Guaranty Agency, plus interest from the date the reinsurance was paid. The Secretary may recover amounts due under this agreement by withholding such amounts from any payments due to the Guaranty Agency from the Department of Education.

The Guaranty Agency also agrees that the assignment of any loan covered by this Agreement includes the assignment to the Secretary of any rights held by the Guaranty Agency under any indemnification agreement or warranty executed by the lender in favor of the Guaranty Agency (lender indemnification agreement). In the event the Secretary recovers from the Guaranty Agency the amount paid in reinsurance for a loan covered by this agreement, the Secretary will release to the Guaranty Agency his rights in the applicable lender indemnification agreement.

Date Signature of Guaranty Agency Official

5.D DISBURSEMENT RECORDS

The Department requires disbursement documentation for all Stafford and PLUS loans that were made under an electronically signed promissory note and for all Stafford and PLUS loans that were made under a MPN, regardless of whether the MPN was signed electronically. At this time, the Department is not requiring an agency to include disbursement documentation for loans made under an individual promissory note with a “wet” signature. However, agencies must **retain these documents for submission to the Secretary at some future date, if requested.** (See Section 7).

Guaranty agencies may submit one of the following documents:

- A copy of a roster from the lender to the school that reflects the date and amount of each disbursement. The agency must obliterate information that does not pertain to the account being assigned, including any other names, Social Security Numbers (SSNs), and amounts listed on the roster.
- A copy of a screen print from the lender’s database reflecting the date and amount of each disbursement.
- A copy of a screen print from the guaranty agency’s database reflecting the date and amount of each disbursement.
- A copy of the Notice of Loan Guarantee and Disclosure Statement that reflects the date and amount of each disbursement.
- A copy of a screen print of the National Student Loan Data System (NSLDS) Loan Summary page. If an agency chooses this option and submits a screen print of the NSLDS Loan Summary page, it constitutes a confirmation that the guaranty agency’s submission to NSLDS is accurate.

While all the documents listed above do not reflect “The record of the lender’s disbursement of Stafford and PLUS loan funds to the school for delivery to the borrower”, as required by the regulations [34 CFR 682.409(c)(4)(vii)], the document submitted will be used to conduct the document verification process. As previously explained, the document verification process is the process wherein certain fields in the promissory note and the disbursement information are compared to the loan record to make sure that they match. In accordance with the regulations, the Secretary may accept the assignment of a loan without all of the documents listed in the regulations; however, agencies must retain these documents for submission to the Secretary at some future date. (See Section 7).

5.E TPD DISCHARGE APPLICATION

All assignments and referrals must be accompanied the original or a copy of the TPD Discharge Application. The copy of the original TPD discharge application must be legible.

Note: GAs have been previously advised that borrowers must submit their Applications for Total and Permanent Disability (Application) with the original signature of the borrower, not a photocopy or other

facsimile. The Department has determined that borrowers may provide the GA with a photocopy signature and process the application with the photocopy signature and no longer need to provide an original signature on the Application.

If the physician's signature date is altered in any way, the alteration must be initialed by the physician.

If the application is signed by a representative on behalf of the borrower, the Department recommends that the loan holder gather documentation of the representation to facilitate exchange of information with the borrower's physician and the representative.

The Department will include in its review any medical documentation from physicians other than the physician who signed the discharge application. Please attach such supplemental medical documentation to the application.

Receipt Date

All assignments must have a receipt date stamped on the Total and Permanent Disability loan discharge application, or there must be attached documentation of the receipt date. The receipt date is the date the loan holder/guarantor received the application.

Loan holders must attach documentation of the receipt date if there is no receipt date stamped on the application. The attached documentation will clarify the receipt date to be used. This attached documentation must contain the following information:

1. Borrower's name
2. Borrower's SSN
3. Loan holder's name
4. Receipt date

If there are multiple receipt date stamps on an application, and no attached documentation to clarify the correct receipt date, the Department will use the earliest date stamp.

The Department will reject an application if the receipt date is greater than 95 days from the physician's signature date. (Regulations allow the borrower to submit the application up to 90 days after the physician's signature date. The Department allows 5 days for mailing time.) If the application is incomplete or the loan holder needs to clarify the physician's medical diagnosis, resulting in the loan holder returning the application to the borrower or physician, the loan holder may use the original submittal date of the application in determining the timeliness of the borrower's disability application.

A guaranty agency or lender may store the records necessary to document the validity of a claim, including the original receipt date of the TPD discharge application in hard copy, in an imaged media format, computer file, or other media formats in accordance with 34 CFR 682.414(a)(4) and (5) and 668.24(d)(3)(i) through (iv). Therefore, the lender's original receipt date of the TPD discharge application can be provided to the guarantor in hard copy on the application, on an electronic image, by computer file records, or by other media format.

5.F PAYMENT INFORMATION

Loan holders must inform the Department of the amount of any payments received after the date the physician signed the application. If the Department receives an assignment and there is no payment information attached, the Department will assume that no payments were received.

All payment information should include payments from any source, including those made by Treasury offset and administrative wage garnishment. The format for the payment listing/lump sum payment information is as follows:

1. Provide the borrower's name on all pages with payment information. Provide the borrower's SSN (or partial SSN) on at least the first page.
2. Loan holder's name
3. Date of printout or submission of the payment list
4. If you provide a payment listing, provide an itemized list of the amounts of payments with their effective dates and the total amount of the list of payments. (Do not include non-payment transactions such as payment applications to principal and interest, fee applications, etc.)
5. If the payment information you provide includes any payment(s) that you refunded to the borrower, you should indicate the payment amount(s) and effective date(s) of the refund.

6. REGULATORY REQUIREMENTS

It is important that agencies be aware of the requirements contained in 34 CFR 682.414, regarding records, reports, and inspection requirements for guaranty agency programs, as it contains important information regarding the retention of records. This section also contains important information regarding the affidavit/certification and testimony requirements, in connection with electronically signed promissory notes/MPNs. The regulations are very specific to the information that must be included in the affidavit/certification, if requested, and the timeframe to respond to the requests.

It is important that in accordance with record retention requirements, guaranty agencies retain records for at least three years after a loan is satisfied. This includes the retention of records of the lender's disbursement of Stafford and PLUS loan funds to the school for delivery to the borrower, in connection with loans where the claim was paid to the lender on or after July 1, 2008.

7. MAINTENANCE OF RECORDS

All loans submitted for assignment are the guaranty agency's responsibility until the agency is officially notified of the Department's acceptance. The mere act of submitting records for assignment does not constitute acceptance of assignment. **The official date of acceptance of a loan by the Department on the TPD Accept and Reject Report is the TPD Status Date for TPD loans with a TPD Status value of Accepted.** Records must also continue to be maintained by your agency, as required by 34 CFR 682.414. These records will enable your agency to identify the location of loans for borrowers making inquiries regarding the status of their accounts, and to reassume the guarantee, if necessary (i.e. lender repurchase).

8. PAYMENT PROCESSING AND ACCOUNT ADJUSTMENTS

Any payments received on an account **after** it has been **accepted** for assignment by the Department (as

indicated by the date of the TPD Accept and Reject Report) must be remitted, in full, to the TPD Servicer at the following address (please make sure that the SSN is listed on the front of the check):

Department of Education
P.O. Box 740283
Atlanta, GA 30374-0283

If the check has already been cashed and the guarantor needs to send the funds electronically, the guarantor should send funds via ACH to Nelnet- Department of Education Servicer is provided below. All funds sent via ACH should have corresponding detail provided to Nelnet via e-mail to the following e-mail address: loanacctinventory@nelnet.net.

**REMITTANCE INSTRUCTIONS
TO REMITTANCE EXPRESS
FOR NELNET**

REMITTER INSTRUCTS BANK TO SEND PAYMENT VIA ACH

COMPANY NAME	NAME of REMITTER
COMPANY ID	TAX ID
COMPANY ENTRY	
DESCRIPTION	PURCHASE OF STUDENT LOANS
SETTLEMENT (ACTUAL	
PAYMENT DATE	DATE
RECEIVING COMPANY ABA	051036706
ACCOUNT NUMBER	540039
AMOUNT	SUPPLIED BY REMITTER
INDIVIDUAL IDENT NUMBER	for example - DEAL #
INDIVIDUAL NAME	EDUCATE ALC 91020010

Payments received on accounts which are pending acceptance by the Department should be processed as any other payment received by your agency (deposit funds, credit account, submit Secretary's equitable share, etc.). Once your agency receives notification from the Department that a loan(s) has been accepted for assignment, the agency should prepare a listing of all **interim period payments** (payments received by the guaranty agency between the date a loan was placed on an assignment file or Assignment Form, and the date the loan was accepted for assignment by the Department, as indicated by the date of the Load Data Base Report) that were received on the accepted loan(s). The list must include the Borrower's SSN, Borrower's Name, Payment Date, and Payment Amount. This listing should be mailed to the following address, so that the proper adjustments to the account are made:

disabilityinformation@nelnet.net (use a password-protected .zip file and provide the password in a separate e-mail)

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217-3904

When processing your Weekly Collection (Offset/Reversal) Record files, in connection with the Treasury Offset Program, if you cannot post an offset or a reversal to an account because it has been assigned to the Department, you must send a listing to the TPD Servicer at the Denver address above. For offsets, the listing must include the Borrower's SSN, Borrower's Name, Effective Date of Offset, and Offset Amount. For reversals, the listing must include the Borrower's SSN, Borrower's Name, Effective Date of Reversal, Reversal Amount and information concerning how the original offset was applied to the account by the agency: i.e., how much was applied to the offset fee, interest, and principal on the account and an indicator as to whether the reversal is a full or partial reversal. **Your agency should not send a check to the Department in connection with an offset, even if the effective date of the offset is after the date the Department accepted assignment of the loan(s).**

Letters may be sent to the TPD Servicer relative to other adjustments that must be made to a loan accepted for assignment by the Department (e.g., an incorrect outstanding amount was provided during the assignment process).

Involuntary Payments

Under 34 CFR 682.402(c)(3), a lender must suspend collection activities after receiving a borrower's certified total and permanent disability discharge request. Accordingly, in the situation in which the discharge application was filed with the lender and the lender filed a claim with the guaranty agency, collection activities have already been suspended on the loan when the guaranty agency receives the loan. In the case of a loan already held by a guaranty agency at the time a borrower applies for a total and permanent disability discharge, the disability discharge request is sent by the borrower directly to the guaranty agency. The guaranty agency should suspend routine collection activities and should not take steps to initiate litigation, AWG, or Federal or State offset for the period during which the guaranty agency is reviewing the borrower's disability discharge request.

We agree, however, that if certain collection activities are in place when a borrower applies for a total and permanent disability discharge, it would be administratively burdensome and costly to require the agency to cease those collection activities only to restart them if the borrower does not qualify for the discharge. Particularly in the case of a borrower who is employed and is subject to administrative wage garnishment or a judgment, it is unlikely that the borrower will qualify for the discharge. Therefore, in cases where a judgment against the borrower has already been obtained, the agency is not required to suspend enforcement of the judgment or vacate the judgment during the review period. If the guaranty agency approves the discharge claim, the judgment should be transferred to the Department when the loan is assigned. Similarly, if an AWG wage withholding order was already in place when the borrower submitted the application for disability discharge, the guaranty agency is not required to withdraw the wage withholding order during the review period. If Federal or State Offset has already been initiated by the Federal or State government, the guaranty agency is not required to halt the Offset during the review process. After an agency makes a determination that the application support the conclusion that the borrower is totally and permanently disabled, the agency must send a record on its next Weekly Update file to inactivate the account from the Treasury Offset Program.

Return of Involuntary Payments

If you receive an involuntary payment on an account after assignment to the Department, you may return the payment *if* you determine that the involuntary payment resulted from your error.

For example, after an account is accepted for assignment by the Department, you discover that the account was not properly removed from the Federal Offset file. You receive a Federal Offset. You may refund the offset. Be sure to report the refund on the Weekly Update file.

Balance Adjustments for Federal Offset or Reversal

If your agency receives an offset or reversal, through the Treasury Offset Program, send a fax or letter requesting adjustment of the loan balance, including both the date and the amount of the offset or reversal, to:

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217-3904

FAX: 303/696-5669

9. LOAN RETURN

If an agency feels that a loan should be returned, the agency should write to the TPD Servicer to explain the circumstances. As you know, there are very few instances where the Department will return a debt to a guaranty agency but there may be circumstances that warrant its return (e.g., a loan was repurchased by the lender prior to the Department's acceptance; a loan is involved in an active litigation matter but was placed on an assignment file in error, etc.)

E-mail: disabilityinformation@nelnet.net

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217-3904

Phone: 888/303-7818 **Note:** If the borrower is hearing-impaired, he or she may web chat with a representative by visiting www.disabilitydischarge.com and clicking "Chat Now".

Fax: 303/696-5669

10. CORRESPONDENCE RECEIVED AFTER ASSIGNMENT

All general correspondence (e.g., letter from a borrower inquiring about their account) received by a guaranty agency in connection with a loan that has been accepted for assignment by the Department should be forwarded to:

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217-3904

Guaranty agencies should send all Closed School, Ability to Benefit (ATB), ATB Appeal, Unauthorized Signature, and Unpaid Tuition Refund applications and/or correspondence that is received on a loan that has been accepted for assignment by the Department to the TPD Servicer. Additionally, please forward

all death notices and total and permanent disability forms that are received on a loan that has been assigned to the Department to the TPD Servicer. Address and contact information is as follows:

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217-3904

Phone: 888/303-7818 **Note:** If the borrower is hearing-impaired, he or she may web chat with a representative by visiting www.disabilitydischarge.com and clicking "Chat Now".

Fax: 303/696-5669

11. BANKRUPTCY AND LITIGATION

Guaranty agencies should send all bankruptcy and litigation documents that are received on an account that has been accepted for assignment by the Department to the TPD Servicer. Address and contact information is as follows:

E-mail: disabilityinformation@nelnet.net

U.S. Department of Education
P.O. Box 173904
Denver, CO 80217-3904

Phone: 888/303-7818 **Note:** If the borrower is hearing-impaired, he or she may web chat with a representative by visiting www.disabilitydischarge.com and clicking "Chat Now".

Fax: 303/696-5669

Guaranty agencies should fax time-sensitive documents, call the TPD Servicer to notify of the fax, and mail the original documents to the appropriate individual.